

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7971 of 1992

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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NIRMALABEN PRABHUDAS DHURVE

Versus

STATE OF GUJARAT

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Appearance:

MR HJ NANAVATI for Petitioner  
GOVERNMENT PLEADER for Respondent No. 1  
SERVED for Respondent No. 2, 3, 4

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 05/11/96

ORAL JUDGEMENT

The petitioner is a widow of one Prabhudas Dhruve who was serving as Assistant Teacher in the respondent No.4 School run and managed by respondent NO.3 Trust. Said Shri Prabhudas while serving as Assistant Teacher passed away on 2nd February, 1991. On demise of said Shri Prabhudas, being his widow, the petitioner lodged

claim for the amount of Group Insurance under the Group Insurance Scheme introduced by the Government under the Resolution dated 21st February, 1985. It was the claim of the petitioner that since 1986, amount of premium was regularly deducted from the salary of late Shri Prabhudas and she being his widow, was entitled to recover the amount of Group Insurance. The claim of the petitioner was, however, rejected and the respondent No.4 was informed that the premium for the year 1985 was not deposited and, therefore, the claim of the petitioner for the amount of Group Insurance could not be sanctioned. It is undisputed that the amount of premium was deducted from the salary of the late Shri Prabhudas since 1986. Feeling aggrieved by the rejection of her claim for the amount of Group Insurance, the petitioner has preferred this petition.

2. Learned advocate Mr. Nanavaty appearing for the petitioner has contended that the amount of premium which was deducted from the salary of late husband of the petitioner was deposited in the Government Treasury and the Government is, therefore, liable to pay the amount of Group Insurance to the petitioner. He has, in the alternative, submitted that even if the school or the Government has committed any default in depositing the amount of premium, the petitioner cannot be made to suffer on account of such default.

3. Learned Asstt. GP Ms. Parekh appearing for the respondent State has placed on record Government Resolution dated 21st January, 1985 and the Rules of Group Insurance Scheme framed by the Life Insurance Corporation of India ["Hereinafter referred to as "the LIC"]. Under the aforesaid Resolution dated 21st January, 1985, Insurance Scheme which is known as Group Insurance Scheme has been introduced. Details of the Scheme is annexed to the resolution. Paragraph 1 provides objects of the Scheme. Paragraph 2 thereof provides that the scheme shall come into force from 1st April, 1985. Paragraph 3 thereof provides that the Director of Higher Education or the District Education Officer as the case may be shall be the disbursing authority for the said scheme. Paragraph 4 thereof provides that the Director of Higher Education and the District Education Officer as the case maybe shall administer the said Scheme. The details of the agreement to be entered into by the member with the LIC of India in this regard is annexed to the scheme as Appendix-V. Paragraph 5 provides for eligibility and admission to the said scheme. Paragraph 6 makes it obligatory upon all the new employees who are appointed

on or after 1st April, 1985 to join the Scheme. Under paragraph 7 of the scheme, existing employees who were already in service on 31st March, 1985 were offered option either to join or to keep out of the said Scheme. The option was required to be exercised on or before 28th February, 1985. It further makes it mandatory that no employee shall be admitted to the Scheme in future. Thus, in view of the aforesaid provisions, existing employees who did not join the scheme with effect from 1st April, 1985 would have no right to join the said scheme at a latter date. Paragraph 12 provides for annual subscription and the amount of the benefits. Paragraph 14 provides that the insurance in case of existing eligible employee shall commence on effective date i.e. 1st April, 1985. Paragraph 15 provides that the premium of the LIC will be arranged to be paid annually by the concerned disbursing authority. It makes it obligatory for the Heads of the Institution concerned to make deduction of the appropriate amount of annual premium and the disbursing authority shall make the payment of the premium to the LIC on the effective date. Attached to the said resolution is a Proforma Agreement to be entered by the Member with the LIC. The LIC has also framed the rules governing the above referred Group Insurance Scheme. Thus, on perusal of the above-referred Scheme, it is established that the Group Insurance Scheme is an agreement between the LIC and the Member concerned. Hence, it is entirely a liability of the LIC to remit the amount of Insurance in the event of the death of Member while in service.

4. In the present case, it is undisputed that late Prabhudas Dhruve was in service on 31st March, 1985. He, therefore, was required to join the Group Insurance Scheme with effect from 1st April, 1985 and topay the premia in accordance with the Rules framed by the LIC. He could not have been admitted to the Scheme after 1st April, 1985. It is not disputed that the amount of premium was deducted from the year 1986 and onwards. Thus, late Prabhudas did not join the Scheme on 1st April, 1985 and he, therefore, could not have been admitted to the Scheme on latter date. Learned advocate Mr. Nanavaty has not been able to satisfy that late Prabhudas did enter into an agreement with the LIC as was required under the Scheme. In absence of any such complete agreement between the member and the LIC, the LIC cannot be directed to remit the amount of Group Insurance to the petitioner.

5. Learned advocate Mr. Nanavaty has contended that

irrespective of the Scheme, amount of premium was deducted from the salary of late Prabhudas since 1986 and it is either the head of the institution or the Government which has committed default in depositing the amount of premium. I do not see any merit in this contention either. The claim of the petitioner has been refused only on account of late Prabhudas having not joined the Scheme on 1st April, 1985. It has not been demonstrated that either the head of the Institution or the Government had made any default in depositing the amount of premium. In the event, no relief can be granted to the petitioner. The petition is, therefore, dismissed. Rule is discharged. There shall be no order as to costs.

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